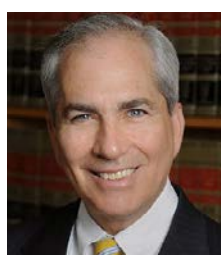


## PASSPORT - NYC'S OVERHAUL OF VENDEX



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The Mayor's Office of Contract Services ("MOCS") is actively engaged in a significant overhaul of the Vendex system, which it is responsible for administering. A two year process, to be known as *Passport*, led by Michael Owh, MOCS Director, is designed to "enhance and streamline" the way Vendex operates. The goal, as stated by MOCS, is to ensure that the procurement process is "fair, efficient, transparent and cost effective."

*Passport's* "Release #1," as it is referred to by MOCS, is to go online this Spring 2017. This is extremely ambitious, as *Passport* is by and large still a work in progress. MOCS claims this release will benefit Vendex users. The new *Passport* system will simplify the process for contractors and vendors. However, while MOCS had hoped to obtain Citywide approval for revamping the current Vendex "Vendor" and "Principal" questionnaires, it was unable to get a consensus among City agencies. MOCS had hoped to eliminate the reporting requirement on the part of "affiliates" and/or subsidiaries from the Vendors Questionnaire, but was advised that this information was mandatory under the enabling legislation that created Vendex. As a result, the current questionnaires will continue to be utilized in the *Passport* application process.

Unlike the current Vendex questionnaires, which are generally not updated until a contract is to be awarded, or every three years, full disclosure will be made at the outset upon first registering under *Passport*. It will be the contractor's responsibility to regularly update its profile pro-actively as items change or events occur. However, how significant changes (e. g., criminal investigation, indictment, convictions, safety findings, poor performance evaluations, etc.) will affect awarded contracts currently being performed remains to be seen.

In order to get this program up and running, all contractors, subcontractors and vendors will be required to create initial *Passport* accounts. This will require refileing of Vendex information, regardless of when last updated and filed. This will greatly assist the implementation of *Passport*. If the City were required to upload its entire current Vendex information database into *Passport*, it reportedly would delay the implementation of *Passport* by years.

As a result, MOCS has chosen to require all contractors, subcontractors and suppliers doing business with New York City to "refile" their complete Vendex submission into *Passport*. As a registrant of *Passport*, contractors will have access to their private accounts. Only MOCS, the Department of Investigation and City contracting agencies will have access to this information. It will not be available to the general public nor competitors. Also, since contractors will be updating profiles as events occur, "Certificates of No Change" will no longer be applicable.

*Passport* will allow those that have access to a profile to see any performance evaluations and/or "advice of cautions." The current Vendex database requires an "advice of caution" and/or performance evaluation to appear on one screen, and any "rebuttal" or response to them on the part of the contractor on another. Under *Passport*, both the evaluation and/or "caution" will appear on the same screen as the contractor's comments. This will allow the inquirer to have a full and complete picture of the evaluation in one location.

Under *Passport*, all submittals will be done electronically. All certifications will be done by e-signature in the expectation of minimizing the vast amount of paperwork which is currently bogging down the Vendex submittal process.

*Passport* Release #2, which MOCS anticipates will go online in 2018, will involve contract procurement-type information, and not just integrity or responsibility-related matters. MOCS hopes to be able to link together a contractor's Vendex Information, its MBE-related information, contract administration information (including payments and change order tracking information), and upcoming procurements. MOCS also envisions *Passport* reporting bid results and contract award information.

Release #2 is currently in the planning stage. MOCS realized that the success of *Passport* is largely dependent upon a cooperative effort between MOCS and the construction industry. As such, MOCS is actively soliciting input and participation from the construction industry to assist in its development.

As indicated, MOCS envisions that, as part of Release #2, the contractor's MWBE certification information will be online and updated as the need arises. Under *Passport*, the current self-certification process for subcontracting will be changed. A subcontractor will have to certify the trades in which it is capable of performing. As part of MOCS's review and evaluation of a subcontractor's ability to perform a specific trade, that subcontractor would be required to submit proof to MOCS that it has in the past successfully performed such work. This proof will also be reviewed and included in *Passport*.

Once *Passport* is fully integrated, the contractor will be able to access all of the contracts it has with the City, as well as submit and review any change orders. Contractors will also be able to access and review any performance evaluations, or "advices of caution," which may have been filed against them. Importantly, contractors will be able to electronically respond to those evaluations and/or cautions.

As part of this process, there will also be a citywide procurement standardization effort. While there is currently a Standard Citywide Construction Contract, MOCS is hoping that it will be able to standardize all procurement contracts so that a contractor or vendor would more readily be able to ascertain what precisely are its contractual requirements, whether for a contract for construction services or for the procurement of goods.

### G&C Commentary

It remains to be seen how this will unfold. Many changes are in the discussion stage. It does, however, appear to be well intended. Any improvement in the procurement procedure which would streamline the award and administration of contracts, as well as payments to contractors, is a welcomed improvement. So are efforts to more fairly disclose contractor "rebuttal" information concerning advices of caution or unfavorable performance evaluations. However, the "devil is in the details" and, as indicated, much remains to be developed. Know, for now, that significant changes in Vendex are on the way.

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